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**DISCUSSION PAPER NO. 67
A COMPARISON OF THE ROLE OF THE
DEPUTY MINISTER IN CANADA WITH THE ROLE OF THE
ACCOUNTING OFFICER IN THE UNITED KINGDOM**

CAROLINE MAWHOOD

SEPTEMBER 1993



DISCUSSION PAPER SERIES

DOCUMENTS DE DISCUSSION

The attached paper has been prepared to stimulate thought and discussion regarding our audit activities. The views expressed are those of the author and therefore should not be construed as those of the Office.

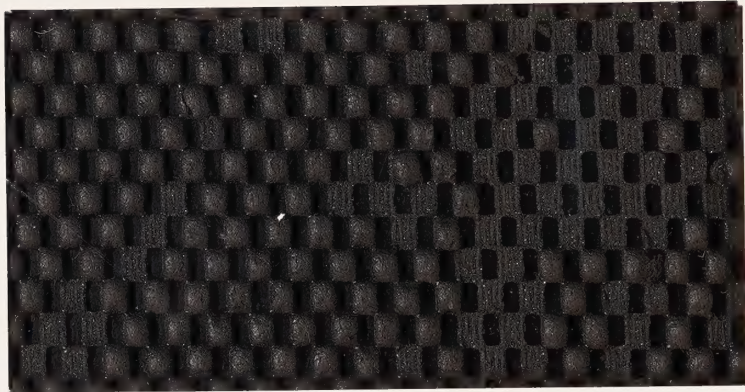
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I. INTRODUCTION

Canada and the United Kingdom have similar parliamentary systems, with Cabinet Ministers who head government departments that are operated by career public servants. In Canada the most senior public servant in a department is the Deputy Minister, and in the UK, it is the Permanent Secretary, who is also the Accounting Officer.

The duties of the Deputy Minister and the Permanent Secretary are based on the principle that the Minister is in charge of the department. These senior officials both derive their authority from the Minister, but their roles have been set out and developed differently. This paper will compare the roles of department heads under the following headings:

- legal basis
- duties
- advice to Ministers
- appointment
- appearance before parliamentary committees

This paper is based on a review of documents setting out the roles of the heads in the two countries and selected articles analyzing those roles (see Annex A). The paper is intended to give an overview of the similarities and differences in the roles and therefore is not a detailed, definitive analysis.

II. LEGAL BASIS

In Canada the Deputy Minister's responsibilities derive from a number of Acts, whereas in the United Kingdom there are no similar statutory authorities for the responsibilities of the Permanent Secretary.

A. Canada

The statutory authority of Deputy Ministers derives from the *Interpretation Act*. Under this Act the Deputy Minister may exercise the powers of the Minister, subject to certain exceptions and restraints. Whoever holds the office of deputy head is automatically vested with that authority, but is subject to priorities and directions set by the Minister. The Deputy may legally substitute for the Minister, except to make regulations.

Deputy Ministers have special responsibilities for personnel administration: the intention being to remove from the Minister the opportunities for political patronage. The *Public Service Employment Act* permits the Public Service Commission to delegate to the Deputy Minister its authority to hire, promote and dismiss public servants. The Treasury Board may delegate to the deputy head any of its powers in relation to personnel management.

The *Financial Administration Act* makes Deputy Ministers responsible for establishing systems to control disbursements and commitments so that they do not exceed the parliamentary appropriation and the allotments approved by the Treasury Board. The Act also requires the Deputy Minister to supervise contract performance and maintain control and custody of public property. However, under this Act (section 33) the Minister bears the ultimate responsibility for the probity of financial administration.

B. United Kingdom

There are no similar statutory authorities in the United Kingdom concerning the role of the Permanent Secretary. The Permanent Secretary is appointed an Accounting Officer by the Treasury in compliance with the 1866 *Exchequer and Audit Departments Act*. This requires the Accounting Officer to sign the accounts described in the letter of appointment and to be the principal witness on behalf of the department before the Public Accounts Committee. From these duties flow certain responsibilities that are part of the duties of Permanent Secretary described in paragraph III.B.

The practice of appointing the permanent head of a department as the Accounting Officer reflects the view that finance and policy cannot be considered separately and that good financial management is an inseparable part of good organization and management. This appointment brings these two aspects of government together at the highest level, since the Permanent head is the only official authorized to discharge that responsibility as a whole.

III. DUTIES

Deputy Ministers and Permanent Secretaries have broadly the same duties, but in the United Kingdom the Permanent Secretary is assigned specific duties as Accounting Officer. In Canada, there is no appointment of an Accounting Officer with express responsibility to appear before the Public Accounts Committee for the discharge of certain responsibilities.

A. Canada

The Privy Council, in their document "The Office of the Deputy Minister", have set out three categories of responsibilities for Deputy Ministers:

- managing the internal operation of the department on behalf of the Minister;
- supporting and participating in the collective management responsibilities of the government; and
- providing the Minister and the government with policy advice to meet the express objectives of the government.

These responsibilities do not specify a role for the Deputy or Accounting Officer (see paragraph III.B.). In the paper "Ministerial Responsibility: A Contemporary Perspective", Denton argues that those who drafted section 33 of the *Financial Administration Act* were deliberately preserving for the Minister some of the responsibilities conferred on the Permanent Secretary in the United Kingdom in their role as Accounting Officer.

B. United Kingdom

The Permanent Secretary in the United Kingdom has the following responsibilities:

- the Minister's principal policy adviser;
- the managing director of the day-to-day operations of the department;
- the management of staff and organization; and
- as accounting officer for the funds provided for the department.

The Treasury have assigned accounting officers the following roles in these letters of appointment:

- to sign the relevant accounts and so accept personal responsibility for the proper presentation of the accounts as prescribed in legislation or by the Treasury;
- to ensure that proper financial procedures are followed and that accounting records are maintained in a form suited to requirements of management. This includes particular responsibilities for propriety and regularity and a specific duty to ensure compliance with parliamentary requirements for control of expenditure;
- to ensure that the public funds for which he is responsible are properly and well managed, and safeguarded. In particular, to avoid waste and extravagance and to seek economy, efficiency and effectiveness in the use of all the resources made available to the department; and
- to ensure that, in the consideration of policy proposals relating to the expenditure or income, all relevant financial considerations are taken into account and where necessary brought to the attention of Ministers.

By virtue of these responsibilities the Accounting Officer appears as a witness before the Public Accounts Committee.

C. General

In both countries it is the Minister who is in charge of a department and who is responsible to Parliament for all aspects of its policies, organization and management, and officials derive their authority from the Minister in charge of their department and are accountable to him for their actions. In the United Kingdom, the job of head of the department brings with it some specific responsibilities as accounting officer. In Canada, these responsibilities have not been separately identified but the responsibilities of the deputy heads of departments for sound financial management are set out in the *Financial Administration Act*. In this context, it is the Deputy Minister who by convention appears before the Public Accounts Committee. Therefore, in Canada, legally and administratively the deputy head is responsible. However, this does not relieve the Minister of his conventional role of accountability to Parliament for the department.

With the principle of ministerial responsibility, the implication exists that there is a sanction for departmental failures. But in practice, the extent to which the Minister is held accountable for the action of his staff is limited. In the article

mentioned above, Denton points out that 16 British Ministers resigned as a result of parliamentary criticism between 1855 and 1970; Denton was unable to find equally clear instances of this kind in Canada. There has been much discussion in Canada over the years about whether particular Ministers should resign, but in the most recent case, the Al-Mashat affair, neither the Minister nor the Deputy Minister resigned¹. The latest position in the United Kingdom is less clear. In the past, several Ministers resigned over the actions of their public servants but this is less likely to happen in the 1990s.

¹ Al-Mashat, Iraq's ambassador to the United States until mid-January 1991, entered Canada as a landed immigrant on 30 March 1991. The government claimed that the decision to allow Al-Mashat to enter Canada was taken by officials without the involvement of the Minister. After an investigation, two public servants at the Department of External Affairs were found to have failed to alert the Minister.

IV. APPOINTMENT

Deputy Ministers and Permanent Secretaries are generally career public servants. Permanent Secretaries tend to stay in their posts longer than Deputy Ministers.

A. Canada

Deputy Ministers are appointed by the Governor in Council on the recommendation of the Prime Minister, and their tenure is determined by the Prime Minister. They are appointed "at pleasure" for an indeterminate period. They are generally drawn from the public service and are expected to demonstrate "satisfactory performance" and "political neutrality". In Canada, there have been a few Deputy Ministers who had previously been in politics.

A recent study by Osbaldeston "Keeping Deputy Ministers Accountable" has shown that the average time spent by Deputy Ministers in a particular department is 18 months. In the 1960s and 1970s, the practice of rotating Deputy Ministers began because professional management and an injection of new ideas were considered more important than departmental expertise. By 1991, the average time for a Deputy Minister to spend in a post had risen to 29 months, and forty percent had been in their posts for three or more years.

B. United Kingdom

Permanent Secretaries are appointed by Ministers with the approval of the Prime Minister on the advice of the Secretary to Cabinet and other senior public servants. They are generally appointed until retirement age (60). Usually the Permanent Secretary is also appointed as accounting officer of the department. But that appointment is made by the Treasury.

Most British Permanent Secretaries are career public servants and generally remain with a department for longer than Canadian Deputy Ministers. However, as part of career moves, Permanent Secretaries do change departments. For example, recently two senior Permanent Secretaries retired from the departments of Education and Defence and were replaced by the Permanent Secretaries for Health and Employment, who in turn were replaced by the Permanent Secretary for the Scottish Office and a senior Treasury public servant. Most Permanent Secretaries are appointed in their early fifties and are in their jobs for about five to ten years unless moved.

V. ADVICE TO THE MINISTER

Deputy Ministers in Canada and Permanent Secretaries in the United Kingdom have similar duties and responsibilities as advisers to the Minister. The responsibilities of the Deputy Minister for the consequences of ministerial action are not as clearly set out in Canada as in the United Kingdom. But the general understanding in Canada is that Ministers would not take a course of action if advised by their Deputy Ministers that it did not have statutory authority.

A. Canada

Once defined by the government, objectives and priorities govern the activities of Deputy Ministers in developing policies and implementing collective and departmental management activities. Within the priorities and objectives, the Deputy Minister should try to advise, where relevant, on the possible impact of initiatives on the public, the department and the government. The departmental responsibilities of the Deputy involve providing advice to the Minister not solely on policy issues but also on departmental administrative matters.

If the Minister is contemplating a course of action that infringes propriety, regularity or prudent administration, the Deputy Minister has a duty to advise the Minister, either orally or in writing. However, because the Deputy Minister is not held accountable to Parliament for these matters, there is not the same requirement to report the matter as there is for the Accounting Officer in the United Kingdom (see paragraph below). Nevertheless, there is a practical requirement that serious matters should be brought to the attention of the Prime Minister through the Secretary to the Cabinet, and if Deputy Ministers observe political problems developing, they should meet and inform the Privy Council Office.

B. United Kingdom

The Accounting Officer has specific responsibility to see that appropriate advice is tendered to Ministers on all matters of financial propriety and regularity and more broadly to oversee all considerations of prudent and economical administration.

If a Minister in charge of the department is contemplating a course of action involving a payment that the Accounting Officer considers would infringe the requirements of propriety or regularity, the Accounting Officer should set out in writing the reasons for his objection to the proposed expenditure. If the Minister decides to proceed, the Accounting Officer should seek a written instruction to make the payment and inform the Comptroller and Auditor General and the Treasury. If he does this, the Public Accounts Committee can be expected to recognize that the Accounting Officer bears no personal responsibility for the expenditure.

If a course of action being contemplated raises questions on prudent and economical administration, it is the duty of the Accounting Officer to draw the Minister's attention to relevant factors and to advise him in whatever way he deems appropriate. If his advice is overruled, both the advice and the overrule should be made clear in the departmental papers and should be made available to the National Audit Office when the Office carries out a value-for-money examination in the relevant area.

VI. APPEARANCE BEFORE PARLIAMENTARY COMMITTEES

In both countries the Deputy Minister and the Permanent Secretary appear before the relevant Public Accounts Committee and other parliamentary committees. However, in the United Kingdom, Permanent Secretaries are likely to appear at least once a year before the Public Accounts Committee, more frequently than their counterparts in Canada.

A. Canada

There are a large number of parliamentary committees in Canada corresponding to the government departments. Although it is the Minister who is usually addressed by a parliamentary committee, the Deputy Minister may appear with the consent of the Minister and the parliamentary committee, always with an understanding of the Minister's position and strategy. The appearance of the Deputy Minister before a parliamentary committee reflects the concept that the deputy head may act on behalf of his Minister while maintaining the principle of full ministerial accountability to Parliament.

The exercise of the principle of ministerial responsibility permits Ministers to limit the scope of questions that may properly be put to officials, and thus of the scope of their testimony before parliamentary committees. While the senior officials are accountable to their Ministers and not directly to Parliament, they do share, to a degree, in the Ministers' answerability for the performance of the departments.

The Public Accounts Committee conducts an ex post facto examination of the Auditor General's annual Report and also the Public Accounts. By convention, the Committee calls Deputy Ministers and their officials as witnesses. Rarely does a Minister appear to give evidence. The appearance of a Deputy Minister before the Committee illustrates the managerial and administrative aspects of his responsibilities and his accountability to the Minister. The Deputy Minister and his officials are seen as being effectively answerable for the internal management of the department; they are well placed to describe in detail the progress and activities of the department. This information may be supplemented by representatives from the Office of the Comptroller General and the Treasury Board.

Until July 1993, there were some 35 government departments, and in a typical year some 10 out of 35 Deputy Ministers would appear before the Public Accounts Committee to answer for the administration of their department.

B. United Kingdom

In the United Kingdom there are a number of parliamentary committees corresponding to departments and Ministers may appear before these committees. However, as in Canada, Permanent Secretaries and other public servants can be

called as witnesses to appear before the Committee, with the permission of the Minister. Normally only the Accounting Officer, supported by officials, appears. In cases where a report covers more than one department or agency, more than one Accounting Office may appear. Others are occasionally invited to give evidence, for example, the Chairman of the Development Board for Rural Wales appeared to give evidence about the severance pay for the former Accounting Officer for the Board.

An Accounting Officer, in his memorandum of appointment, is required to appear before the Public Accounts Committee to give evidence on the Comptroller and Auditor General's value-for-money reports and to answer questions concerning expenditure and receipts on Votes and other accounts. The Accounting Officer is expected to provide the Public Accounts Committee with explanations of any weaknesses identified by the Comptroller and Auditor General. According to convention, public servants do not disclose the advice given to Ministers.

In the United Kingdom there are about 25 departments, and in a typical year a Permanent Secretary would appear before the Committee at least once. In the case of the larger departments, such as the Ministry of Defence, this would happen about four times. This is because the British Public Accounts Committee generally takes evidence on every Comptroller and Auditor General's report (équivalent to a chapter in the Canadian Auditor General's Report), whereas the Canadian Committee takes evidence as selected chapters in the annual Report. The Permanent Secretary therefore appears more frequently before the Public Accounts Committee than the deputy head in Canada.

VII. SUMMARY

In Canada, the Deputy Minister's responsibilities derive from a number of Acts, whereas in the United Kingdom there are no similar statutory authorities for the responsibilities of the Permanent Secretary.

Deputy Ministers and Permanent Secretaries have the same general duties, but in the United Kingdom the Permanent Secretary is assigned specific duties as Accounting Officer. In Canada there is no appointment of an Accounting Officer with express responsibility to appear before the Public Accounts Committee for the discharge of the specified responsibilities for ensuring propriety, regularity and proper management of public funds.

Deputy Ministers and Permanent Secretaries are generally career public servants. Permanent Secretaries tend to stay in their posts much longer than Deputy Ministers.

Deputy Ministers in Canada and Permanent Secretaries in the United Kingdom have similar duties and responsibilities placed upon them as advisors to the Minister. The responsibilities of the Deputy Minister for the consequences of ministerial action are not as clearly and formally set out in Canada as they are in the United Kingdom. But the general understanding in Canada is that Ministers would not take a course of action if advised that it did not have statutory authority by their Deputy Ministers.

Both the Deputy Minister and the Permanent Secretary appear before the Public Accounts Committee and other parliamentary committees. However, in the United Kingdom, Permanent Secretaries of departments are likely to appear at least once a year before the Public Accounts Committee which is more frequent than their counterparts in Canada.

VIII. CONCLUSION

The Deputy Minister in Canada and the Permanent Secretary in the United Kingdom have similar duties and responsibilities placed upon them as advisors to the Minister. However, in matters of administration, personnel and finance their responsibilities have been laid down differently. In Canada, there is no appointment of an Accounting Officer with express responsibility to appear before the Public Accounts Committee for the discharge of specific responsibilities. The *Financial Administration Act* assigns to the Minister the ultimate responsibility for the probity of financial administration, whereas in the United Kingdom the Permanent Secretary as Accounting Officer has responsibility for signing the departmental appropriation accounts.

The responsibilities of the Deputy Minister for the consequences of ministerial action are not as clearly set out for the Deputy Minister in Canada as they are in the United Kingdom. However, the *Financial Administration Act* does specify certain responsibilities for the Deputy Minister, and the general understanding is that ministers normally decide against a course of action that would be improper if so advised by the senior public servant.

The United Kingdom approach of appointing Accounting Officers and assigning responsibilities is more formalized than the Canadian approach. In practice, however, both systems work in similar ways in that the Deputy Minister or Accounting Officer answers before the Public Accounts Committee on questions of administration of the department.

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